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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

DOMINIC VARGAS (AKA DIAMOND  
VARGAS),

Plaintiff,

v.

CALIFORNIA DEPARTMENT OF  
CORRECTIONS AND  
REHABILITATION, et al.,

Defendants.

CASE NO. 1:20-cv-0083 JLT (PC)

**ORDER TO SHOW CAUSE WHY  
PLAINTIFF’S MOTION TO PROCEED *IN  
FORMA PAUPERIS* SHOULD NOT BE  
DENIED**

**(Docs. 2, 7)**

**21-DAY DEADLINE**

Plaintiff has applied to proceed *in forma pauperis*. (Doc. 2.) The Inmate Statement Report submitted by the California Department of Corrections and Rehabilitation in support of plaintiff’s application shows an account balance fluctuating between \$43.76 and \$627.08, with the balance routinely exceeding \$250.

Proceeding “*in forma pauperis* is a privilege not a right.” Smart v. Heinze, 347 F.2d 114, 116 (9th Cir. 1965). While a party need not be completely destitute to proceed IFP, Adkins v. E.I. DuPont de Nemours & Co., 335 U.S. 331, 339-40 (1948), “the same even-handed care must be employed to assure that federal funds are not squandered to underwrite, at public expense, either frivolous claims or the remonstrances of a suitor who is financially able, in whole or in material part, to pull his own oar.” Doe v. Educ. Enrichment Sys., No. 15cv2628-MMA (MDD), 2015 U.S. Dist. LEXIS 173063, \*2 (S.D. Cal. Dec. 30, 2015) (citing Temple v. Ellerthorpe, 586

1 F. Supp. 848, 850 (D.R.I. 1984)). “[T]he court shall dismiss the case at any time if the court  
2 determines the allegation of poverty is untrue.” 28 U.S.C. § 1915(e)(2)(A). It appears that  
3 plaintiff has had sufficient funds over the last several months to be required to pay the filing fee  
4 in full to proceed in this action, but he chose to spend his money elsewhere.

5 Accordingly, the Court **ORDERS** that **within 21 days** of the date of service of this order,  
6 plaintiff shall show cause why his motion to proceed *in forma pauperis* should not be denied and  
7 he be required to pay the filing fee in full before proceeding. Alternatively, plaintiff may file a  
8 notice of voluntary dismissal.

9 **Failure to respond to this order will result in dismissal for failure to obey a court**  
10 **order.**

11 IT IS SO ORDERED.

12 Dated: **February 10, 2020**

13 **/s/ Jennifer L. Thurston**  
14 UNITED STATES MAGISTRATE JUDGE  
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